

## INTERFERENCE DIGEST

Interference No. 105,452

Paper No.

Name: Cyril J. Schweich et al.

Serial No.: 10/073,968

Patent No.

Title: Heart wall tension reduction apparatus

Filed: 02/14/02

Interference with Melvin

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

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### FINAL DECISION

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_

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Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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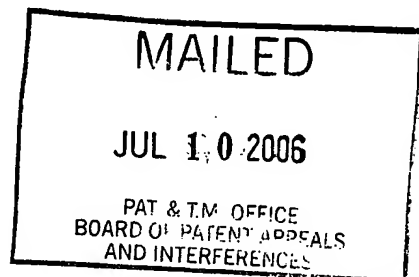
This should be placed in each application or patent involved in interference in addition to the interference letters.



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Michael P. Tierney  
Telephone: 571-272-9797  
Facsimile: 571-273-0042



Applicants: SCHWEICH  
Application No.: 10/073,968  
Filed: 02/14/02  
For: Heart wall tension reduction apparatus

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,452.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/Michael P. Tierney/  
MICHAEL P. TIERNEY  
Administrative Patent Judge

Filed by:

Michael P. Tierney  
Administrative Patent Judge  
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Filed July 10, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

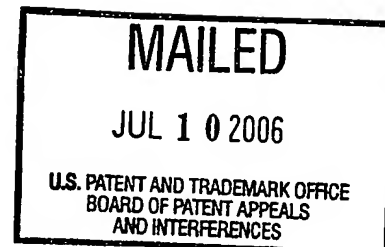
DAVID B. MELVIN  
Junior Party  
(Patent Nos. 6,190,408 and 6,409,760),

v.

CYRIL J. SCHWEICH, JR. AND TODD J. MORTIER  
Senior Party  
(Application No 10/073,968).

Patent Interference No. 105,452 (MPT)  
(Technology Center 3700)

**DECLARATION - Bd.R. 203(d)<sup>1</sup>**



1        **Part A. Declaration of interference**

2        An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

3        Details of the application(s), patent (if any), reissue application (if any), count(s) and claims

4        designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of

5        this DECLARATION.

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1           **Part B. Judge managing the interference**

2           Administrative Patent Judge Michael P. Tierney has been designated to manage the  
3 Interference. Bd. R. 104(a).

4           **Part C. Standing order**

5           A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION.  
6 The STANDING ORDER applies to this interference.

7           **Part D. Initial conference call**

8           A telephone conference call to discuss the interference is set for **2:00 p.m. September 6,**  
9 **2006** (the Board will initiate the call).

10          No later than **four business days** prior to the conference call, each party shall file and  
11 serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120  
12 & 204) the party intends to file.

13          A sample schedule for taking action during the motion phase appears as Form 2 in the  
14 STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference  
15 call and to agree on dates for taking action. A typical motion period lasts approximately eight (8)  
16 months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. Identification and order of the parties**

Junior Party

Named inventors: DAVID B. MELVIN, LOVELAND, OH

Involved Patent: U.S. Patent No. 6,190,408, issued February 20, 2001,  
issued from U.S. Application No. 09/035,710, filed March  
5, 1998

Title: DEVICE AND METHOD FOR RESTRUCTURING THE  
HEART CHAMBER GEOMETRY

Assignee: THE UNIVERSITY OF CINCINNATI

Junior Party

Named inventors: DAVID B. MELVIN, LOVELAND, OH

Involved Patent: U.S. Patent No. 6,409,760, issued June 25, 2002, issued  
from U.S. Application No. 09/598,424, filed June 21, 2000

Title: DEVICE AND METHOD FOR RESTRUCTURING  
HEART CHAMBER GEOMETRY

Assignee: THE UNIVERSITY OF CINCINNATI

Senior Party

Named Inventors: CYRIL J. SCHWEICH JR., ST. PAUL, MN  
TODD J. MORTIER, MINNEAPOLIS, MN

Involved Application: U.S. Application No. 10/073,968, filed February 14, 2002

Title: HEART WALL TENSION REDUCTION APPARATUS

Assignee: MYOCOR, INC.

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

**Part F. Count and claims of the parties**

Count 1

A device according to claim 1 of U.S. Patent No. 6,409,760 or claim 40 of U.S. Application No. 10/073,968.

The claims of the parties are:

Melvin, U.S. Patent No. 6,190,408:	1-39
Melvin, U.S. Patent No. 6,409,760:	1-50
Schweich, U.S. Application No. 10/073,968:	15-79

1           The claims of the parties which correspond to Count 1 are:

2	Melvin, U.S. Patent No. 6,190,408:	1-39
3	Melvin, U.S. Patent No. 6,409,760:	1-50
4	Schweich, U.S. Application No. 10/073,968:	15-79

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6           The claims of the parties which do not correspond to Count 1, and therefore are not

7 involved in the interference, are:

8	Melvin, U.S. Patent No. 6,190,408:	None
9	Melvin, U.S. Patent No. 6,409,760:	None
10	Schweich, U.S. Application No. 10/073,968:	None

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12           The parties are accorded the following benefit for Count 1:

13           Melvin is accorded priority benefit of the following applications: None

14           Schweich is accorded priority benefit of the following applications:

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| 15 | 1) | U.S. Application 09/985,361, filed November 2, 2001; |
| 16 | 2) | U.S. Application 09/697,597, filed October 27, 2000; |
| 17 | 3) | U.S. Application 09/492,777, filed January 28, 2000; |
| 18 | 4) | U.S. Application 08/778,277, filed January 2, 1997.  |

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21           **Part G. Heading to be used on papers**

22           The following heading must be used on all papers filed in this interference, see SO

23 ¶ 106.1.1:

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4 UNITED STATES PATENT AND TRADEMARK OFFICE

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7 BEFORE THE BOARD OF PATENT APPEALS  
8 AND INTERFERENCES  
9

10  
11 DAVID B. MELVIN  
12 Junior Party  
13 (Patent Nos. 6,190,408 and 6,409,760),  
14

15 v.  
16

17 CYRIL J. SCHWEICH, JR. AND TODD J. MORTIER  
18 Senior Party  
19 (Application No 10/073,968).  
20  
21

22 Patent Interference No. 105,452 (MPT)  
23 (Technology Center 3700)  
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26 **Part H. Order form for requesting file copies**

27 When requesting copies of files, use of SO Form 4 will greatly expedite processing of the  
28 request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle  
29 around the patents and applications for which a copy of a file wrapper is requested.

/Michael P. Tierney/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Form PTO-850  
Copy of claims of 10/073,968  
Copies of U.S. Patents 6,190,408 and 6,409,760

Revised 3 January 2006



cc (via overnight delivery):

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